

BOARDS AND COMMISSIONS
Board of Nursing
(Amendment)

201 KAR 20:215. Continuing competency requirements.

RELATES TO: KRS 218A.205(3)(i), 314.011(12), 314.073, 314.991(1)-(3)

STATUTORY AUTHORITY: KRS 218A.205(3)(i), 314.073, 314.131(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1), (2), and 314.073 require the Board of Nursing to promulgate administrative regulations to establish continuing competency requirements for nurses. This administrative regulation establishes the fees, procedures, and requirements for continuing competency for nurses.

Section 1. Definitions. (1) "Contact hour" means fifty (50) minutes of an approved, organized learning experience.

(2) "Earning period" means November 1 through October 31 of a current licensure period.

(3) "Preceptor" means a nurse with demonstrated competence in a specific clinical area who serves as a role model and mentor to assist in the development and validation of the competencies of a nursing student or new employee.

Section 2. (1) A licensee shall choose a method from Section 3 of this administrative regulation to validate his or her continued competency in nursing for each earning period.

(2) A licensee shall maintain the documentation of the method chosen.

(3) A licensee shall provide the documentation if directed by the board.

Section 3. Methods for continued competency validation shall be as follows:

(1) Fourteen (14) contact hours of continuing education, which shall:

(a) Be from a provider approved by the board pursuant to 201 KAR 20:220;

(b) Be completed during the earning period; and

(c) Include the continuing education required by Section 5 of this administrative regulation;

(2) Current national certification or recertification and the continuing education required by Section 5 of this administrative regulation. The certification shall be related to the nurse's practice role and shall:

(a) Have been initially attained during the earning period;

(b) If issued for a period of time as evidenced by an expiration date, have been in effect during the entire earning period; or

(c) Have been recertified during the earning period;

(3) The continuing education required by Section 5 of this administrative regulation and at least one (1) of the following during the earning period:

(a) Completion of a research project that is nursing-related:

1. As principal investigator, coinvestigator, or project director;

2. That is qualitative or quantitative in nature;

3. That utilizes a research methodology;

4. That increases knowledge, causes an improved outcome, or changes behavior; and

5. That is evidenced by an abstract of the project, which includes a summary of the findings;

(b) Publication of an article in a peer-reviewed health-related journal;

(c) Participation as a preceptor for at least one (1) nursing student or new employee.

1. The preceptorship shall be for at least 120 hours.

2. There shall be a one (1) to one (1) relationship between the preceptor and the student or employee.

3. The preceptor may train more than one (1) student or employee and may combine the hours to total 120 hours.

4. The preceptorship shall be evidenced by submission of the Preceptor Continuing Education Verification Form completed by [written documentation from] the educational institution or preceptor's supervisor; or

(4)(a) Seven (7) hours of continuing education from a provider approved by the board pursuant to 201 KAR 20:220 and earned during the licensure period, which shall include the continuing education required by Section 5 of this administrative regulation if applicable; and

(b) A nursing employment evaluation that is satisfactory for continued employment. The nurse shall submit the Nursing Continuing Education Employer Evaluation Form, completed and signed by the nurse's supervisor or employer, which shall cover a period of at least six (6) months during the earning period. [

~~1. The evaluation, which shall:~~

~~a. Cover a period of at least six (6) months during the earning period;~~

~~b. Be signed by the nurse's supervisor; and~~

~~c. Include the name, address, and telephone number of the employer; and~~

~~2. The Nursing Employment Evaluation Form.]~~

(5) Contact hours of continuing education earned for subsection (1) or (4) of this section may be earned by:

(a) 1. A nursing continuing education presentation that is:

a. Designed and developed by the presenter;

b. Presented to nurses or other health professionals;

c. Evidenced by a program brochure, course syllabi, or a letter from the offering provider identifying the licensee's participation as the presenter of the offering; and

d. Offered by a provider approved pursuant to 201 KAR 20:220.

2. The number of contact hours that may be earned shall be twice the number of contact hours offered to an attendee of the presentation; or

(b) Successful completion of a postlicensure academic course at a college, university, or postsecondary vocational institution if relevant to nursing practice as determined by this subsection.

1. Contact hours shall be calculated as follows:

a. One (1) semester or trimester hour of academic credit shall equal fifteen (15) contact hours; or

b. One (1) quarter hour of academic credit shall equal twelve (12) contact hours.

2. The following courses shall be relevant to nursing practice:

a. A nursing course, designated by a nursing course number, and beyond the prelicensure curriculum of the individual licensee; or

b. An academic course that is applicable to the nurse's role and beyond the prelicensure curriculum of the individual licensee.

3. A licensee may request course review for approval of applicable nursing content pursuant to Section 7 of this administrative regulation.

4. If it is an academic course in which grades are given, the licensee shall achieve a grade of "C" or better, or a pass on a pass-fail grading system.

Section 4. (1) A licensee shall provide documentation of the method used to validate continued competency if the licensee is the subject of a disciplinary complaint.

(2) A licensee shall provide documentation of the method used to validate continued competency if requested by the board pursuant to a random audit of licensees.

Section 5. (1)(a) Advanced practice registered nurses who do not have a Collaborative Agreement for Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS) pursuant to KRS 314.042(10) or a waiver and registration issued by the United States Drug Enforcement Administration (DEA) to prescribe buprenorphine for the treatment of opioid use disorder shall earn a minimum of five (5) contact hours in pharmacology.

(b) Advanced practice registered nurses with a Collaborative Agreement for Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS) pursuant to KRS 314.042(10) who do not have a waiver and registration issued by the DEA to prescribe buprenorphine for the treatment of opioid use disorder shall earn a minimum of five (5) contact hours in pharmacology, including at least one and one-half (1.5) contact hours on the dual subjects of pharmacology and either [as a part of the requirement of paragraph (a) of this subsection, at least one and one-half (1.5) contact hours related to the use of the KASPER system,] pain management, or addiction disorders.

(c) Advanced practice registered nurses who have a waiver and registration issued by the DEA to prescribe buprenorphine for the treatment of opioid use disorder shall earn:

1. a minimum of five (5) contact hours annually in pharmacology, of which one and one-half (1.5) pharmacology hours must be on the dual subjects of addiction disorders and pharmacology; and

2. and additional two and one-half (2.5) contact hours annually on addiction disorders.

~~(d)[(e)]~~ To qualify as pharmacology pursuant to KRS 314.073, content shall include drug specific information, safe prescribing practices, safe medication administration, prescribing methodologies, new administrative regulations, or similar topics.

~~(e)[(d)]~~ Objectives for the contact hours related to pharmacology shall be identified. Casual mention of medications or medical treatments shall not qualify.

(2) Sexual assault nurse examiners shall earn the continuing education required by 201 KAR 20:411, Section 8.

(3) Registered nurses and licensed practical nurses [licensed after July 15, 2010] shall earn, within three (3) years of licensure, a minimum of one and one-half (1.5) contact hours in pediatric abusive head trauma as required by KRS 314.073(6), and a minimum of three (3) contact hours on domestic violence as required by KRS 194A.540[within three (3) years of licensure].

(4) Registered nurses, licensed practical nurses, and advanced practice registered nurses who hold an active nursing license on July 1, 2022, shall satisfy the continuing competency requirement in subsection (6) of this section on or before July 1, 2023.

(5) Registered nurses, licensed practical nurses, and advanced practice registered nurses who obtain licensure by examination, endorsement or reinstatement after July 1, 2022, shall satisfy the continuing competency requirements in subsection (6) of this section within three (3) years of licensure.

(6)(a) Nurses shall earn a minimum of two (2) contact hours on the subject of suicide prevention, which shall consist of one (1) contact hour on suicide prevention generally, and one (1) contact hour that addresses:

1. Chronic toxic stress and secondary traumatic stress potentially increasing the incidence of suicide amongst nurses;

2. A confidential and standardized pathway to care for nurses that addresses screening, assessing, safety planning, referrals and follow-up for nurses at risk for suicide;

3. Systems of care, evidence-informed approaches, and best practices to reduce suicide rates; and

4. Ethical legal considerations of caring for patients/nurses who are suicidal.

(b) Nurses shall earn a minimum of one and one-half (1.5) contact hours in implicit bias that addresses:

1. The impact of historical racism and other forms of invidious discrimination on the provision of healthcare;

2. Methods of evaluating the presence and extent of implicit bias; and

3. Measures that can be taken to reduce implicit bias.

Section 6. (1)(a) A licensee shall maintain records to substantiate methods used to validate competency.

(b) All records shall be retained for at least five (5) years following the current licensure period.

(2)(a) A licensee shall, upon request, furnish to the board or its staff, legible copies of the records required to be maintained by subsection (1) of this section, in electronic format to CE Broker, the continuing education tracking system utilized by the board, via <https://cebroker.com>.

(b) Copies shall be furnished within twenty (20) days of the date a written request is sent ~~[mailed by first class]~~ to the last known email address of the licensee or applicant.

(c) Failure to furnish records as required by this administrative regulation shall be cause for the issuance of a complaint pursuant to 201 KAR 20:161 for failure to comply with KRS 314.073(2).

(3)(a) Except as provided by paragraph (b) of this subsection, if a licensee has failed to comply with the continuing competency requirements, the licensee shall be allowed to rectify the noncompliance if he or she:

1. Meets the continuing competency requirements within ten (10) business ~~[thirty (30)]~~ days of notification of noncompliance; and

2. Enters a consent decree with the board pursuant to 201 KAR 20:161, Section 2(5), within ten (10) days of notification by the board.

(b) The board shall issue a complaint pursuant to 201 KAR 20:161 if:

1. A licensee fails to furnish records as requested pursuant to subsection (2) of this section; or

2. There is evidence of fraud or deceit in procuring or attempting to procure a license to practice nursing.

(4) A licensee who attends continuing education activities, whether as a presenter, participant, or student, shall attend the entire offering to be eligible to receive the number of contact hours for which the activity has been approved.

(5) It shall be the responsibility of each licensee to select and participate in those continuing education activities that will meet the criteria for acceptable continuing education.

(6) A licensee shall not repeat the same continuing education offering within a licensure period. The board shall determine whether a continued education offering is the same offering based upon the certificate of attendance from the offering that includes items such as the activity number, date, topic, and presenter.

Section 7. (1) A licensee may request an individual review of a nonapproved continuing education activity completed during the earning period if, within thirty (30) days after the expiration of the immediate past licensure period, the licensee has:

(a) Requested the review by submitting an Application for Individual Review; and

- (b) Paid a fee of ten (10) dollars.
- (2) The review shall be based on generally accepted standards of adult education and shall be applicable to the nurse's role.
- (3) Approval of a nonapproved continuing education activity shall:
 - (a) Qualify it as having been obtained from an approved provider for the licensee requesting the review; and
 - (b) Be limited to the particular offering upon which the request for individual review is based.
- (4) The board may offer continuing education hours for programs sponsored by the board. These continuing education hours shall be deemed to have been obtained from an approved provider. The board shall comply with all applicable provider standards.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Application for Individual Review", 9/2005; ~~and~~
- (b) "Nursing Continuing Education Employment Evaluation Form", 6/2021~~[2016]~~; and
- (c) "Preceptor Continuing Education Verification Form", 6/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/legalopinions/Pages/laws.aspx>.

JESSICA WILSON, President

APPROVED BY AGENCY: June 17, 2021

FILED WITH LRC: July 14, 2021 at 9:12 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, September 21, 2021 at 10:00 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five work-days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m. EDT) Thursday, September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 338-2851, email Jeffrey.Prather@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey R. Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation implements continuing competency education ("CE") requirements for nurses, as mandated by KRS 314.073 and KRS 314.131(1), (2).

(b) The necessity of this administrative regulation: This regulation implements CE requirements for nurses, as mandated by KRS 314.073 and KRS 314.131(1), (2).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation implements KRS 314.073 and KRS 314.131(1), (2) by setting CE requirements for nurses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation guides nurses by identifying the required training subjects and methods necessary to maintain continuing competency.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This regulation clarifies the separate pharmacology training requirement that apply to three categories of APRN licensees: (1) those with a DEA X registration, which permits the prescribing of medication assisted therapies to opioid use disorder patients; (2) those who hold a CAPA-CS agreement, but not a DEA X registration; and (3) those who hold neither a DEA X registration or a CAPA-CS agreement. This regulation adds two new CE requirements: suicide prevention (2 hours); and implicit bias (1.5 hours). All RNs, LPNs and APRNs are required to satisfy these two new training requirements once. Those nurses who hold an active license on July 1, 2022, must satisfy the suicide prevention and implicit bias training requirements within one year. Those licensed after July 1, 2022, must satisfy the requirements within three years of licensure. The amendment incorporates a preexisting domestic violence CE requirement into the regulation. See, KRS 194A.540. The regulation requires submission of CE records via CE Broker, a free online CE management portal, and allows requests for such records to be sent to nurses via email. Where a notice of noncompliance is sent to a nurse based upon the nurse's nonresponse to a request for records, the amendment shortens the response period from 30 days to 10 business days. The amendment incorporates a new form to be used when 120 hours of work as a preceptor is the method of satisfying a portion of the continuing competency requirements. The amendment modifies an existing employer evaluation form, where a work performance evaluation is the chosen method of satisfying a portion of the continuing competency requirements.

(b) The necessity of the amendment to the administrative regulation: The amendments are necessary in order to comply with the statutory mandate that the board administer continuing education requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 314.073 and KRS 314.131(1), (2) by setting specific CE requirements for separate categories of licensees.

(d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: The amendment will assist in the effective administration of KRS 314.073 and KRS 314.131(1), (2) by setting specific CE requirements for separate categories of licensees, thereby allowing them to maintain nursing competency.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to the Kentucky Board of Nursing, education providers who train and educate nurses, and approximately 95,000 nurses who hold an active Kentucky nursing license.

(4) Provide an analysis of how the entities referenced in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) A detailed explanation of the actions the entities referenced in question (3) will be required to undertake in order to comply with this proposed administrative regulation: All nurses

will be required to undergo a one-time training on suicide prevention (2 hours), and implicit bias (1.5 hours). Those nurses who hold an active license on July 1, 2022, must satisfy the suicide prevention and implicit bias training requirements within one year. Those licensed after July 1, 2022, must satisfy the requirements within three years of licensure. Those nurses who are directed to submit CE records must do so via CE Broker, a free online CE management portal, and the requests may be sent to nurses via email. Where a notice of noncompliance is sent to a nurse based upon the nurse's nonresponse to a request for records, the amendment shortens the response period from 30 days to 10 business days. The amendment incorporates a new form to be used when 120 hours of work as a preceptor is the method of satisfying a portion of the continuing competency requirements.

(b) An estimate of the costs imposed on entities referenced in question (3) in order to comply with this proposed administrative regulation: Given the varying methods that may be utilized to satisfy the requirements set forth in regulation, and because the cost of CE offerings vary, it is impossible to precisely quantify the cost to nurses arising from the regulation; however, there are multiple online entities that provide CE, either for free or for a flat fee that includes unlimited offerings. For example, the website RN.com provided unlimited CE offerings for nurses on a variety of subjects for a flat fee of fifty dollars (\$50) per year. The cost to the agency is difficult to quantify, because the implementation and the enforcement of 201 KAR 20:215 is tasked to over a dozen agency employees, but only as a partial component of each employee's overall work responsibilities. As to providers of continuing education to Kentucky nurses, the regulation does not impose a cost; rather, the regulation creates a demand for their educational offerings. CE providers that approved by national nursing organizations listed on the KBN website (<https://kbn.ky.gov/ce/Pages/default.aspx>) are not required to pay any fees to KBN; however, other providers must pay a \$400 fee when initially becoming a KBN-approved provider, and a \$100 fee when renewing their providership approval every two years. KRS 314.073(7) authorizes the board to impose reasonable fees to recoup costs incurred in the exercise of its authority related to continuing education.

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: Compliance with the regulation allows Kentucky nurses to maintain both competency and ongoing licensure.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation, both initially and on a continuing basis: No additional agency costs are anticipated as a consequence of the amendment, either initially or on an ongoing basis. The only exception applies if the board undertakes to function as the provider of continuing education content to nurses, as such activity necessitates the expenditure of staff time, and any printing costs incurred. When conducting training at locations of than agency headquarters, the agency incurs costs associated with employee travel. KRS 314.073(7) authorizes the board to impose reasonable fees to recoup costs incurred in the exercise of its authority related to continuing education. Nonprofit organizations such as the Kentucky Nurses Action Coalition, the Kentucky Nursing Deans and Directors, and the Kentucky Nurses Association have indicated their intention to develop and provide training modules to nurses on the subjects of implicit bias and suicide prevention, so agency involvement as a direct provider of these trainings is not anticipated at present.

(6) Provide the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds, except to the extent that the board undertakes a role as the provider of continuing education content to nurses. In such instances, KRS 314.073(7) allow the board to impose reasonable fees to recoup costs incurred associated with the training. The agency recoups some enforcement costs thought the imposition of civil penal-

ties. In FY21, 117 consent decrees were completed as a component of the annual KBN CE audit, which resulted in the collection of civil penalties totaling \$18,100.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: No increase in fees or funding is anticipated as a consequence of the amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The only fee directly established in this regulation is the \$10 fee specified in 201 KAR 20:215 §7(1)(b), which applies when a licensee seeks approval of a CE offering that was presented by a person or organization that is not on the list of KBN-approved providers and is not approved by a national nursing organization listed on the KBN website: <https://kbn.ky.gov/ce/Pages/default.aspx>. In FY21, only \$20 was collected pursuant to this provision. This regulation indirectly results in fees, when an annual audit identifies licensees who failed to comply with the CE requirements. In FY21, 117 consent decrees were completed as a component of the annual KBN CE audit, which resulted in the collection of civil penalties totaling \$18,100.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.073(7), 314.131(2), 218A.205(3)(i), 194A.540, 314.142.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No increase in fees or funding is anticipated as a consequence of the amendment. This regulation indirectly results in fees, when an annual audit identifies licensees who failed to comply with the CE requirements. In FY21, 117 consent decrees were completed as a component of the annual KBN CE audit, which resulted in the collection of civil penalties totaling \$18,100.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No increase in fees or funding is anticipated as a consequence of the amendment. This regulation indirectly results in fees, when an annual audit identifies licensees who failed to comply with the CE requirements. In FY21, 117 consent decrees were completed as a component of the annual KBN CE audit, which resulted in the collection of civil penalties totaling \$18,100.

(c) How much will it cost to administer this program for the first year? No additional agency costs are anticipated as a consequence of the amendment, either initially or on an ongoing basis. The only exception applies if the board undertakes to function as the provider of continuing education content to nurses, as such activity necessitates the expenditure of staff time, and any printing costs incurred. When conducting training at locations of than agency headquarters, the agency incurs costs associated with employee travel. KRS 314.073(7) authorizes the board to impose reasonable fees to recoup costs incurred in the exercise of its authority related to continuing education. Nonprofit organizations such as the Kentucky Nurses Action Coalition, the Kentucky Nursing Deans and Directors, and the Kentucky Nurses Association have

indicated their intention to develop and provide training modules to nurses on the subjects of implicit bias and suicide prevention, so agency involvement as a direct provider of these trainings is not anticipated at present.

(d) How much will it cost to administer this program for subsequent years? No additional agency costs are anticipated as a consequence of the amendment, either initially or on an ongoing basis. The only exception applies if the board undertakes to function as the provider of continuing education content to nurses, as such activity necessitates the expenditure of staff time, and any printing costs incurred. When conducting training at locations other than agency headquarters, the agency incurs costs associated with employee travel. KRS 314.073(7) authorizes the board to impose reasonable fees to recoup costs incurred in the exercise of its authority related to continuing education. Nonprofit organizations such as the Kentucky Nurses Action Coalition, the Kentucky Nursing Deans and Directors, and the Kentucky Nurses Association have indicated their intention to develop and provide training modules to nurses on the subjects of implicit bias and suicide prevention, so agency involvement as a direct provider of these trainings is not anticipated at present.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No increase or decrease in revenues or expenditures are anticipated as a consequence of the amendment.